

**FREDERICK COUNTY PLANNING COMMISSION**  
**Meeting Minutes**  
**January 19, 2011**

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**Commission Members Present:**

Richard Floyd, Secretary  
Catherine Forrence  
Robert Lawrence  
Billy Shreve, BoCC Liaison

Robert White, Chair  
Audrey Wolfe

**Members Absent:** John McClurkin, Vice Chair

**Staff Present:**

Jim Gugel, Chief Planner, Planning  
John Mathias, County Attorney  
Eric Soter, Director, Div. of Planning

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**1:00 P.M.**

**AFTERNOON SESSION**

CHAIR WHITE BROUGHT THE MEETING TO ORDER AT 1:00 P.M.

**MINUTES**

**a. October 20, 2010**

**MOTION:** Mr. Floyd made a motion to approve the October 20, 2010 minutes as presented, 2<sup>nd</sup> by Ms. Wolfe.

**Floyd/2<sup>nd</sup> Wolfe - Approved 4-0-1-2**

**Yeas-4 (Floyd, Wolfe, White, Lawrence), Nays-0, Abstain- 1 (Forrence), Absent- 2 (Shreve, McClurkin)**

**WATER AND SEWERAGE PLAN AMENDMENT**

**Fall Cycle of Water and Sewerage Plan Amendment** – The following are requests to amend the County Water and Sewerage Plan for the purpose of determining consistency with the County Comprehensive Plan.

**Findings/Recommendations:**

Staff recommends the Planning Commission make a finding of consistency with the County Comprehensive plan.

**Staff Presentation:**

Jim Gugel presented all of the Application staff reports.

- a. WS-10-10: Adcock Holdings, LLC** - Tax Map 77, Parcel 322 (6001B Urbana Pike), Requesting reclassification from W-5/Dev. to W-3/Dev.

**Applicant:**

Rand Weinberg, Esq., represented the Applicant.

**Public Comment:**

None

**MOTION:** Ms. Forrence made a motion for a finding of consistency with the County Comprehensive Plan, 2<sup>nd</sup> by Ms. Wolfe.

**Forrence/2<sup>nd</sup> Wolfe - Approved 5-0-0-2**

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**Yeas-5** (Forrence, Wolfe, White, Floyd, Lawrence), **Nays-0, Abstain- 0, Absent- 2** (McClurkin, Shreve)

- b. **WS-10-11: Marley Gate, LLC** - Tax Map 801, Parcel 3823 (Main Street, New Market), Requesting reclassification from W-5/Dev. to W-3/Dev.

**Discussion:**

Ms. Forrence presented questions related to the tap allocations, questioning whether the taps for the commercial and the residential portions of the three story buildings that contain both were the same.

Mr. Gugel explained that the taps for nonresidential uses are based on the fixtures which are determined the number of bathrooms, kitchen facilities, etc. versus a residential unit which typically only have one water connection and one sewer connection.

Ms. Forrence questioned whether there were a sufficient number of taps allocated.

Mr. Gugel stated the water agreement the Town has with the County will be determined by the point of the Town actually applies for a tap. Staff had not specific answers at that time.

Ms. Forrence questioned the validity and the composer of the justification statement as part of the Application packet.

Mr. Gugel clarified that the justification statement is from the Applicant, Marley Gate, LLC and not the Town of New Market.

Ms. Forrence questioned whether there were enough taps allocated within the WSAA (Water Service Areas Agreement) for the New Market residents along Main Street that now have sewer service but may want to connect to public water service.

(SHREVE ARRIVED AT 1:13 P.M.)

Mr. Gugel stated he would assume there are enough but stated that agreement is amended at times to reallocate additional taps as needed. He added that taps are not reserved for properties but are allocated on a first come first serve basis but stated that generally, there is sufficient water capacity to connect every existing resident within the Town in addition to the new development. The BoCC as part of their review will look more specifically at the capacity and the status of the water agreement.

**Applicant:**

Brad Tavel of Main Street Development represented the Applicant.

**Public Comment:**

None

**MOTION:** Ms. Wolfe made a motion for a finding of consistency with the County Comprehensive Plan, 2<sup>nd</sup> by Mr. Lawrence.

**Wolfe/2<sup>nd</sup> Lawrence - Approved 4-2-0-1**

**Yeas-4** (Wolfe, Lawrence, White, Shreve), **Nays-2** (Forrence, Floyd) **Abstain- 0, Absent- 1** (McClurkin)

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**PLANNING COMMISSION COMMENTS**

Mr. White took a moment to recognize Commissioner Shreve as the new Commissioner liaison to the Planning Commission and well as introduce the Planning Commission panel present, then continued hearing the remaining Water and Sewerage Amendment applications.

- c. **WS-10-12: Town of New Market (Olsen/Pippin)** - Tax Map 801, Parcel 3852 (13 West Main Street, New Market), Requesting reclassification from W-5/Dev. to W-3/Dev.

**Discussion:**

Mr. Lawrence questioned the reasoning for the Planning Commission considering Town of New Market properties on a piecemeal basis.

Mr. Gugel stated consideration is based on individual applications submitted by property owners.

Mr. Shreve suggested modifying the Planning Commission policies and procedures for these types of applications to ruling by consent for such procedural items and tasks.

**Applicant:**

Not present

**Public Comment:**

None

**MOTION:** Ms. Forrence made a motion for a finding of consistency with the County Comprehensive Plan, 2<sup>nd</sup> by Mr. Lawrence.

**Forrence/2<sup>nd</sup> Lawrence - Approved 6-0-0-1**

**Yeas-6 (Forrence, Lawrence, Wolfe, White, Floyd, Shreve), Nays-0, Abstain- 0, Absent- 1 (McClurkin)**

- d. **WS-10-13: Monocacy Land Company, LLC. c/o Natelli Communities** - Tax Map 96, Parcel 249, Lots 1--107 plus 15 open space parcels (Boxwood Section of the Villages of Urbana), Requesting reclassification from W-4/Dev., S-4/Dev. to W-3/Dev., S-3/Dev.

**Applicant:**

Kraig Walsleben of Rodgers Consulting represented the Applicant.

**Public Comment:**

None

**MOTION:** Ms. Forrence made a motion for a finding of consistency with the County Comprehensive Plan, 2<sup>nd</sup> by Ms. Wolfe.

**Forrence/2<sup>nd</sup> Wolfe - Approved 6-0-0-1**

**Yeas-6 (Forrence, Wolfe, White, Floyd, Lawrence, Shreve), Nays-0, Abstain- 0, Absent- 1 (McClurkin)**

- e. **WS-10-14: Segall Development Associates** - 44 acres, n/s MD 144 @ Monocacy River (City Comp. Plan: GC City Zoning: GC)

<b><u>Map</u></b>	<b><u>Parcel</u></b>	<b><u>Existing</u></b>	<b><u>Requested</u></b>
78	422	W-5, S-5	W-4, S-4

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78	699	PS	W-4, S-4
78	421	PS	W-4, S-4
78	420	PS	W-4, S-4
78	422	PS	W-4, S-4
78	694	PS	W-4, S-4

**Applicant:**

Rand Weinberg, Esq., represented the Applicant.

**Public Comment:**

None

**Discussion:**

Mr. Lawrence commented that 5 of the properties as part of the application were designated Planned Service (PS) and questioned whether it was common practice for applicants to go from PS and request W-4/S-4, jumping over W-5/S-5.

Mr. Gugel stated No and that it would be an issue that will be addressed by the BoCC, at which time the Planning Staff and Division of Solid Waste Management (DUSWM) Staff as part of their review would specifically determine whether they meet the criteria to go from PS to W-4/S-4.

Other Planning Commission members stated although it is atypical, they recall seeing this before.

Mr. Lawrence stated he could not find consistency for the entire application based on the language within Section IV. Administration and Organization, S-4/W-4- Concept Evaluation Phase, page 2 of the staff report which stated "Properties which are classified in this category shall have the following characteristics: a. The property has an S-5/W-5 classification, and criteria noted in S-5/W-5 classification have been met." He emphasized the term "shall" and its meaning and stated that 5 of the 6 parcels, specifically parcels 420, 421, 422, 694, and 699, in the application do not meet the said criteria.

Mr. Gugel stated there is an ability to jump categories but it will be the decision of the BoCC as to whether this specific request meets the criteria of the requested category. He clarified that a determination of finding of consistency with the Comprehensive Plan and the appropriateness of having community water and sewer service should be the primary focus of the Planning Commission. He stated these properties meet this by virtue of being within a community growth area and a water and sewer service area.

There was debate as to whether the Water and Sewerage Plan along with other documents are all part of and complimentary to the Countywide Comprehensive plan.

The Planning Commission requested input to the discussion from the County Attorney and a copy of the Countywide Comprehensive Plan document to view.

BREAK AT 1:37 P.M.; THE MEETING RESUMED AT 1:42 P.M.

John Mathias, County Attorney arrived to offer legal opinion.

The Planning Commission presented Mr. Mathias with the question of interpretation of the term "shall" in the Water and Sewerage Plan amendment process and how that relates to a finding of consistency.

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Mr. Mathias stated that under that State Environment Article, the role of the County Planning Commission is to certify that a plan revision or amendment is consistent with the County Comprehensive Plan. He stated that Water and Sewerage Plan is not part of the Comprehensive Plan and stated that the Planning Commission is not tasked with applying the criteria within the Water and Sewerage Plan to determine whether the properties qualify as S-4/W-4, but rather if the BoCC determine that the properties be classified as S-4/W-4, is that consistent with the County Comprehensive Plan.

Mr. Gugel added that he BoCC has the discretion to apply another category to a property that it feels it meets the criteria for, whether it is the requested classification or even the next higher classification if applicable.

Mr. White requested that Staff develop a paragraph with regard to consistency to add to future staff reports that clearly explains the role and task of the Planning Commission.

Mr. Soter agreed to have staff add that explanation to future staff reports similar to what is done during the CIP review process. He added that consistent regulation can support a plan, could be neutral, but should not under-mind a plan.

**MOTION:** Mr. Lawrence made a motion for a finding of consistency with the County Comprehensive Plan, 2<sup>nd</sup> by Ms. Wolfe.

**Lawrence/2<sup>nd</sup> Wolfe - Approved 6-0-0-1**

**Yeas-6 (Lawrence, Wolfe, White, Shreve, Forrence, Floyd), Nays-0 Abstain- 0, Absent- 1 (McClurkin)**

**MOTION:** Mr. Lawrence made a motion to transmit to the Board of County Commissioners (BoCC) the fact that while application WS-10-14 is consistent with the Comprehensive Plan, it is not consistent with the language of the Water and Sewerage Plan, 2<sup>nd</sup> by Ms. Forrence.

**Lawrence/2<sup>nd</sup> Forrence - Approved 4-1-1-1**

**Yeas-4 (Lawrence, Forrence, White, Floyd), Nays-1 (Wolfe) Abstain- 1 (Shreve) Absent- 1 (McClurkin)**

Prior to the conclusion of the meeting, Mr. Shreve made a statement to his fellow members of the Planning Commission stating that with responsibility of being liaison to 12 commissions and boards, he may not be able to attend all of the scheduled meetings of the Planning Commission and that if any issues arise to feel free to discuss with him.

Mr. White requested that if and when there are items that appear to be controversial or of concern, that Mr. Shreve be contacted and his attendance requested to avoid cases of split decision or to make a quorum.

The Planning Commission was briefed on an upcoming webinar scheduled that afternoon and were invited to attend.

**BEING NO FURTHER BUSINESS, THE MEETING ADJOURNED AT 1:57 P.M.**

Respectfully Submitted,

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Robert White, Chair

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